

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Mark Morgel and Nicholas Morgel,

Civil No. 10-4481 (MJD/JSM)

Plaintiffs,

vs.

BAC Home Loans Servicing, LP f/k/a
Countrywide Home Loans Servicing, LP,
Bank of America, Wells Fargo Bank
National Association and Federal National
Mortgage Association,

**ORDER APPROVING PLAINTIFFS
AND DEFENDANTS' STIPULATION
TO VACATE FORECLOSURE SALE**

Defendants.

The above-entitled matter came on before the Court pursuant to a Stipulation to Vacate Foreclosure Sale, executed by and between the Plaintiffs Mark Morgel and Nicholas Morgel ("Morgels") and Defendants BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP ("BACHLS"), Bank of America, N.A. ("Bank of America"), Wells Fargo Bank, N.A. ("Wells Fargo"), and Federal National Mortgage Association.

Based upon all the files, records, and proceedings herein, and the Court being fully advised in the premises, IT IS HEREBY ORDERED that the Stipulation executed by the parties (Doc. No. 15) is hereby approved and adopted by the Court as follows:

1. The Sheriff's Sale of the real property legally described as Lot 11, Block 3, Knollwood 3rd, Washington County, Minnesota (the "Subject Property") and the Sheriff's Certificate of Sale dated April 9, 2010 that evidences such sale and that was recorded in the office of the Washington County Recorder on April 9, 2010 as Document No. 3786598 are hereby declared, for all purposes, to be void, *ab initio*, and of no force or effect.

2. On or about April 10, 2003, Morgels executed a note in favor of American Mortgage Network, Inc. to evidence the Morgels' obligation to repay a \$126,000 loan from American Mortgage Network, Inc. to Morgels (the "Promissory Note").

3. The mortgage on the Subject Property that Morgels granted Mortgage Electronic Registration Systems, Inc. as nominee for American Mortgage Network, Inc., dated April 10, 2003, and recorded in the office of the Washington County Recorder on July 15, 2003 as Doc. No. 3354303 (the "Mortgage"), as assigned by Mortgage Electronic Registration Systems, Inc., as nominee for American Mortgage Network, Inc., to Countrywide Home Loans, Inc. pursuant to an Assignment of Mortgage dated September 16, 2008, and recorded on September 22, 2008 with the Washington County Recorder as Doc. No. 3708688, and as further assigned by Countrywide Home Loans, Inc. to BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP pursuant to an Assignment of Mortgage dated April 8, 2009 and recorded on April 10,

2009 with the Washington County Recorder as Doc. No. 3734174, and the power of sale contained therein, is and has remained, at all times since its execution and delivery, in full force and effect and constitutes a valid lien on the Subject Property. (The Promissory Note and Mortgage will be referred to collectively hereinafter as the “Subject Mortgage Loan.”)

4. After the foreclosure sale is rescinded, interest shall accrue on the outstanding principal balance owed on the Subject Mortgage Loan at the rate set forth in the Promissory Note.

5. On or about July 25, 2006, Morgels executed a note in favor of Wells Fargo Bank, N.A., to evidence the Morgels’ obligation to repay a \$30,000 loan from Wells Fargo Bank, N.A. to Morgels (“the Wells Fargo Note”). To secure their performance of the obligation under the Wells Fargo Note, Morgels’ granted Wells Fargo Bank, N.A. a second mortgage on the Subject Property (the “Wells Fargo Mortgage”). The Wells Fargo Mortgage is dated July 25, 2006, and was recorded in the office of the Washington County Recorder on August 18, 2006 as Doc. No. 3602267. The Wells Fargo Mortgage, including the power of sale contained therein, is and has remained, at all times since its execution and delivery in full force and effect, and constitutes a valid lien on the Subject Property.

6. As of February 10, 2012, Morgels are current in their payments and obligations under the Wells Fargo Note.

7. The Mortgage is prior and superior to the Wells Fargo Mortgage.

8. The Notice of Intention to Redeem that Wells Fargo Bank, N.A. executed on April 16, 2010 and recorded in the office of the Washington County Recorder on June 18, 2010 as Document No. 3795514 is hereby declared, for all purposes, to be void *ab initio* and of no force or effect.

Dated: February 15, 2012

s/ Michael J. Davis

Michael J. Davis

Chief United States District Judge